

REMARKS

Claims 2-15, and amended claim 1 are in this application.

Claims 1, 5, 6, 10, 11 and 15 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al. (U.S. 5,585,838) in view of Alexander et al. (U.S. 6,177,931 B1).

Amended independent claim 1 recites in part the following:

"said representation of each said past program currently in the display being in a first color, said representation of each said present program currently in the display being in a second color different from said first color, and said representation of each said future program currently in the display being in a third color different from said first and second colors." (Emphasis added.)

Thus, the display of claim 1 may be operable to provide representations such that each currently displayed past program is in a first color, each currently displayed present program is in a second color, and each currently displayed future program is in a third color (wherein each of the colors is different from each other). An example thereof is shown in Figure 4 of the present application and described in paragraph 0034 of the present application. As a result, each of the currently displayed past programs, present programs, and future programs are readily distinguishable from one another. (See paragraph 0036 of the present application.)

In explaining the above 103 rejection with regard to claim 1, the Examiner appears to rely on Figure 8 and lines 42-46 of column 9 of Lawler in combination with lines 15-22 of column 19 of Alexander for teaching the above feature of claim 1. It is respectfully submitted that such rejection be withdrawn for at least the following reasons.

First, it is respectfully submitted that neither the portions of Lawler relied upon by the Examiner (hereinafter, merely "Lawler") nor the portions of Alexander relied upon by the Examiner (hereinafter, merely "Alexander") specifically disclose the above feature of claim 1. That is, Lawler appears to disclose the use of a first color for currently available programs and the use of a second color for currently unavailable programs (i.e., past and future programs). As such, Lawler appears to use only two colors for past, present, and future programs in which the same color is used for both past and future programs. Thus, Lawler does not show displaying each past program in a first color, each present program in a second color, and each future program in a third color in which each of these colors is different from each other. With regard to Alexander, Alexander appears to disclose the use of only one color (green) for a current game and a different color (blue) if the game is completed. As such, Alexander does not appear to use a third color (different from the other two colors) for future programs. Thus, Alexander does not show displaying each past program in a first color, each present program in a second color, and each future program in a third color in which each of these colors is different from each other.

As such, it is respectfully submitted that amended claim 1 is distinguishable from a proper combination of Lawler and Alexander.

Second, the Examiner apparently asserts that it would have been obvious to modify Lawler in view of Alexander. In this regard, reference is made to In re Fritch, 23 USPQ 2d 1780 (CAFC 1992), in which the Court states at page 1783:

"Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching or suggestion supporting the combination. Under section 103, teachings of references can be combined only if

there is some suggestion or incentive to do so'. Although couched in terms of combining teachings found in the prior art, the same inquiry must be carried out in the context of a purported obvious 'modification' of the prior art. The mere fact that the prior art may be modified in the manner suggested by the Examiner does not make the modification obvious unless the prior art suggested the desirability of the modification....It is impermissible to use the claimed invention as an instruction manual or 'template' to piece together the teachings of the prior art so that the claimed invention is rendered obvious. This court has previously stated that '[o]ne cannot use hindsight reconstruction to pick and choose among isolated disclosures in the prior art to deprecate the claimed invention". (Underlining added for emphasis.)

There does not appear to be any suggestion in Lawler and/or Alexander as required by the Court in *In Re Fritch*, to modify the teachings of Lawler in the manner suggested by the Examiner. However, if the Examiner disagrees therewith, it is respectfully requested that the Examiner identify where in Lawler and Alexander there is a suggestion to modify Lawler's use of only two colors for available and unavailable programs so as to use three colors, as in claim 1. Therefore, with regard to the above identified feature of claim 1 and in accordance with the Court in *In Re Fritch*, it is believed to be impermissible to modify Lawler in the manner proposed by the Examiner.

Accordingly, the applicant respectfully requests that the 103 rejection of claim 1 be withdrawn. For similar reasons, it is also respectfully requested that the 103 rejection of independent claims 6 and 11 be withdrawn.

Claims 5, 10, and 15 depend respectively from one of independent claims 1, 6, and 11 and, as such, include all of the

features set forth therein. Accordingly, it is also respectfully requested that the 103 rejection of claims 5, 10, and 15 be withdrawn.

Claims 2, 3, 7, 8, 12, and 13 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al. in view of Alexander et al. and further in view of Borden IV et al. (U.S. 6,857,128 B1).

Claims 2, 3, 7, 8, 12, and 13 depend from one of independent claims 1, 6, and 11 and, as such, include all of the features set forth therein. The Examiner appears to only rely on Borden IV for the features of claims 2, 3, 7, 8, 12, and 13 and not to overcome the above-described deficiencies of Lawler and Alexander. Accordingly, it is also respectfully requested that the 103 rejection of claims 2, 3, 7, 8, 12, and 13 be withdrawn.

Claims 4, 9, and 14 were rejected under 35 U.S.C. 103(a) as being unpatentable over Lawler et al. in view of Alexander et al. and further in view of Lemons (U.S. 6,481,011 B1).

Claims 4, 9, and 14 depend from one of independent claims 1, 6, and 11 and, as such, include all of the features set forth therein. The Examiner appears to only rely on Lemons for the features of claims 4, 9, and 14 and not to overcome the above-described deficiencies of Lawler and Alexander. Accordingly, it is also respectfully requested that the 103 rejection of claims 4, 9, and 14 be withdrawn.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of

the claims and to pass this application to issue.

If, however, for any reason the Examiner does not believe that such action can be taken at this time, it is respectfully requested that the Examiner telephone applicant's attorney at (908) 654-5000 in order to overcome any additional objections which the Examiner might have.

If there are any charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

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Respectfully submitted,

By 

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